

The Odisha Gazette



**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 406, CUTTACK, FRIDAY, FEBRUARY 23, 2024/FALGUNA 4, 1945

[No.6324—GAD-CS4-ALLOT-0026/2016/CA.]

GENERAL ADMINISTRATION & PUBLIC GRIEVANCE DEPARTMENT

RESOLUTION

The 23rd February, 2024

Subject : Execution of lease deed and other post allotment services in the category of Pre-possession cases under Annexure V-A, V-B & V-C and cases covered under Annexure-II-A, H-B and II-C of the Task Force Report along with in third party transfer cases arising out of single allotments.

Task Force Committee was constituted vide G.A. Department Order No. 21545/AIS, dated the 2nd August, 2014 to review the irregularities in the allotment of land/flats/houses by **BDA, CDA, OSHB** and **G.A. Department** including cases of discretionary quota plot/flat/house to ineligible persons.

As per the decision taken in the Cabinet and after approval of the Government, resolution regarding implementation of the report of the Task Force on allotment of land/flats/houses at Bhubaneswar and Cuttack was communicated to BDA/CDA/OSHB vide Resolution No. 2538, dated the 30th January, 2015. The Task Force Report has held it irregular and hence the cases have not been considered for regularisation with execution of lease deed.

Modalities for implementation of the recommendation of the Task Force on allotment of land/flats/houses at Bhubaneswar and Cuttack was formulated and communicated to all concerned vide G.A. Department letter No. 11084, dated the 6th May, 2015 and as such, the Developmental Authorities like BDA, CDA and OSHB did not act upon the post possession transfer cases.

In 2022, Government was pleased to exempt Discretionary Quota cases of single allotments and allotments with factual errors from the purview of Task Force Report.

Further, in 2023, Government after careful consideration was pleased to pass order for execution of lease deed and other post-allotment services in post possession cases mentioned in the *Annexure-V-A (ii), V-B and V-C* of the Task Force Report.

Litigations have arisen in the High Court of Odisha for Pre-Possession / Transfer Cases. Recently, Hon'ble High Court in WP (C) No. 18169 /2023 in the matter of Jyoti Prakash Mishra vrs. State of Odisha and another has held that the case of pre-possession transfers stood in much better footing than the post possession transfers already involved therein in their orders as below:-

"Thus there remain no doubt that there was no such reference to the Task Force involving the dispute involved herein and the Task Force recommendation on non-reference aspect, if any, does not bind either state or the Development Authority so far it relates to pre-possession transfer or post possession transfer as it completely remain outside discretionary allotments. It is in the above background of the judgment in the aforesaid Writ Petition, this Court has clearly held the Task Force unnecessarily entered into non-issues and delivered its opinion on non-assigned issues, further observing opinion, if any, on non-issues has no binding effect in allowing the aforesaid Writ petition by the judgment dated 12th October, 2022. There has been further development, the State Government in acceptance of the aforesaid judgment has already issued a notification vide Annexure-A/1 to the counter affidavit of Opposite Party No.1 so also Annexure-B/2 to the counter affidavit of Opposite Party No.2. This Court has no hesitation to hold here that case of the Petitioner particularly the case of pre-possession transfers stood in much better footing than the post possession transfers already involved therein."

BDA/CDA/OSHB further raised these issues of allotments made in the category of pre-possession cases and cases covered under *Annexure II-A, II-B and II-C* of the Task Force Report along with in third party transfer cases arising out of single allotments taking into account the orders of the Hon'ble High Court.

On the request of Development Authorities and housing board the matter was examined in the light of the recommendations of the report of the task force contained in Para. 48 (7) which reveals as below.

"However, it is suggested that cancellation may not be done in respect of the allottee getting only one plot /house/flat thorough fair means and by following the prescribed procedure and provisions for such transfer."

Views of Learned Advocate General were solicited who has finally opined that
.... it can be safely concluded that there exists no legal embargo in permitting the third-party transfers of single allotments, be it pre possession or post possession transfer. In-so-far as the plot in

category II-A is concerned, it is stated that if the said plots also come under the category of single allotments, then there is no legal hurdle to transfer the same in favour of the beneficiaries. However,

it is to be ascertained by the BDA on case-to-case basis as to whether such allotments have originally been made by complying with the conditions mentioned in the relevant brochure."

H & UD Deptt. has given their views for taking action as per the legal opinion receipt from the Competent Authority and to consider similar types of cases of CDA and OSHB.

Accordingly, the 74th meeting of the State Cabinet held on dated 22nd February, 2024 considered and approved the proposals relating to allotments in the category of Pre-possession cases under Annexure V-A, V-B & V-C and cases covered under Annexure-II-A, II-B and II-C of the Task Force Report along with in third party transfer cases arising out of single allotments. Government after careful consideration, have been pleased to decide for:-

A) Exclusion of the names of the allottees under pre-possession category (as mentioned in Annexure V-A, V-B and V-C of the Task Force Report), getting single allotment of plot/house/flat through fair means by following the prescribed procedure and provisions, as enshrined in the respective brochures, as ascertained on case to case basis, by the Developmental Authorities and Odisha State Housing Board, and transfer of such allotments to the legal heirs, from the purview of Task Force Report.

B) Exclusion of the names of the allottees under pre-launching category (as mentioned in Annexure II-A, II-B and II-C of the Task Force Report), getting single allotment of plot/house/flat through fair means by following the prescribed procedure and provisions, as enshrined in the respective brochures, as ascertained on case to case basis, by the Developmental Authorities and Odisha State Housing Board, and transfer of such allotments to the legal heirs, from the purview of Task Force Report.

C) Exclusion of third party Transfers for all valid and absolute single allotments under Discretionary Quota, post-possession allotment, pre-possession allotment and pre-launching allotments (those are excluded/to be excluded from the purview of the

Task Force Report), which have taken place either in accordance with brochure conditions and/or with the prior permission of the Competent Authority, as ascertained on case to case basis, by the Developmental Authorities and Odisha State Housing Board, from the purview of the Task Force Report.

ORDER:- Ordered that the Resolution be published in the *Odisha Gazette* and copies thereof be forwarded to Principal Secretary, Finance Department/Principal Secretary, H & UD. Department/Secretary, Law Department/Director-cum-Additional D.G.P, Vigilance, Odisha, Cuttack/Secretary, BDA, Bhubaneswar/Secretary, OSHB, Bhubaneswar, Secretary, CDA, Cuttack, Director, Printing Stationery& Publication, Odisha, Cuttack/Secretary to Governor/50 copies thereof to this Department for use.

By Order of the Governor
SURENDRA KUMAR
Additional Chief Secretary to Government

